

means of prosecuting or defending a suit for divorce, and this without any inquiry whatever, into the merits. Many of the cases establishing the rule, and explanatory of the reasons upon which it rests, were referred to in *Daiger vs. Daiger*, recently decided by this court. In *Mix vs. Mix*, 1 Johns. Ch. Rep., 108, Chancellor Kent says, "after the fact of marriage is admitted, the courts do allow the wife a sum for carrying on the suit, as well as for intermediate alimony." This remark was made in a case, however, in which the petition "stated a case requiring immediate relief." And in the subsequent case of *Denton vs. Denton*, same book, page 364, the existence of the rule is distinctly reaffirmed and enforced, and the authority of these cases is recognized by the Court of Appeals in this state, in the case of *Ricketts vs. Ricketts*, 4 Gill, 105.

But if the wife has under her own control the means of carrying on the suit, and maintaining herself, pending the litigation, the reason of the rule fails, and the rule itself fails also. This qualification of the rule has not been controverted, the argument of the counsel, for the petitioner, having been denied to show that she is without the means, either of supporting herself, or defraying the expenses of the suit, and this is the material question to be considered upon the present application.

It has been already observed, that upon this application, the merits of the prayer for a divorce, will not be examined. The question, now before the court, will be decided irrespective of the merits, and even though its jurisdiction has been denied in the argument, it is not, on that account, at liberty to withhold from the petitioner the means of living in the interval, or perhaps, of prosecuting her suit. In the case of *Mix vs. Mix*, already referred to, where the defendant, the husband, demurred to the bill for the want of jurisdiction, the Chancellor, before the demurrer was disposed of, and of course, before the question of jurisdiction was settled, ordered temporary alimony, though he did not, in that condition of the case, feel at liberty to allow the wife money to carry on the suit. He remarked that "the plaintiff ought to set down her cause for hearing, upon the demurrer." In this case, the defendant has not demurred,